IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 24780 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KUSUMBEN CHIMANLAL BHAGAT - Petitioner(s)
Versus
COMPETENT AUTHORITY AND DY. COLLECTOR & 1 - Respondent(s)

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Appearance :
MR PUSHPADATTA VYAS for Petitioner(s) : 1,
MR NEERAJ SONI A.G.P. for Respondent(s) : 1,
NOTICE SERVED for Respondent(s) : 1 - 2.
MR KHARI for MR CZ SANKHLA for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 05/04/2007

ORAL JUDGMENT

1. **RULE**. Mr. Neeraj Soni learned A.G.P., waives service of rule on behalf of respondent no. 1 and learned advocate Mr. Khare waives service of rule on behalf of

respondent no. 2. At the request of the learned advocates appearing for the parties, the matter is taken up for final hearing today itself.

2. The petitioner's land was acquired for construction of the National Highway by Notification dated 20th February, 2002. After complying with requisite formalities, the petitioner was granted compensation of Rs.1,22,310=00. Being dissatisfied with the amount of compensation granted to her, she submitted an application which is at annexure-E. By the said application, she requested for additional amount of Rs.1,97,690=00. However, she withdrew the application on understanding reached by the parties whereby, the petitioner is to receive additional amount of Rs.48,251=00. Necessary order has been passed by the Deputy Collector, Valsad, and competent authority dated 5th September, 2005, which shows that the applicant is granted additional compensation of Rs.48,251=00. However, the said amount is still not paid to her on the ground that since the Lavad Suit is pending against the petitioner she should first get it cleared. To that the petitioner adequately replied that the entire amount had already been paid to the concerned Co-operative and no amount is outstanding from her. However, respondent no. 2, is not parting with the payment.

3. I have carefully considered the submissions advanced by Mr. Pushpadatta Vyas learned advocate for the petitioner, Mr. Soni learned A.G.P., for respondent no. 1 and Mr. Khare learned advocate for respondent no. 2. It appears that respondent no. 1 has no justifying reason to withhold the payment more particularly, when as per the understanding arrived at, the petitioner had accepted a sum of Rs.48,251=00 against her additional claim of Rs.1,97,690=00. Respondent no. 1 is, therefore, directed to honour the understanding reached between the parties and pay to the petitioner the outstanding amount of Rs.48,251=00 without any further delay. Respondent no. 2 has filed the affidavit and from the submission made by Mr. Khare and considering the averments made in the affidavit, it appears that it has hardly any role to play in this petition. Therefore, no direction is required to be issued on it. Respondent no. 1 is directed to make necessary payment together with interest at the prevailing rate, at the earliest and in any event not later than 30th June, 2007.

4. The petition is, therefore, allowed. Rule is made absolute to the aforesaid extent.

[Akshay H. Mehta, J.]

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